

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/537,803	10/23/95	BREEN	36-001

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ARLINGTON VA 22201-4714

26M1/0331

EXAMINER OPSASNICK, M
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ART UNIT 2300	PAPER NUMBER 4
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DATE MAILED: 03/31/97

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/537,803

Applicant(s)

Breen

Examiner

Mike Opsasnick

Group Art Unit

2308



☒ Responsive to communication(s) filed on Oct 23, 1995

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-10 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☒ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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**Part III DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-4, drawn to method comprising dividing input signal to segments and then identifying, retrieving, and joining the corresponding digital waveforms segments of output section of the database, classified in Class 395, subclass 2.67.

Group II. Claims 5-8, drawn to database for storing waveforms and converting waveforms, classified in Class 395, subclass 2.1.

Group III. Claims 9-10, drawn to segment matching, classified in Class 395, subclass 2.4. Claims 9-10 fail to recite the claim 1 steps of dividing the speech into segments, retrieving segments of the digital waveform, and joining the digital segments.

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2. The inventions are distinct, each from the other because of the following reasons: Inventions of group I and II are related as combination and subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as database structures for storing and converting waveforms. See M.P.E.P. § 806.05(d).

3. Inventions of group I and III are related as combination and subcombination. Inventions of group I and III are related as combination and subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as the various techniques of segment matching. See M.P.E.P. § 806.05(d).

4. Because these inventions are distinct for the reasons given above and the search required for Groups II and III is not

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required for Group I, restriction for examination purposes as indicated is proper.

5. Inventions of group II and III are related as combination and subcombination. Inventions of group II and III are related as combination and subcombination disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as the various techniques of segment matching. See M.P.E.P. § 806.05(d).

6. Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group II, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

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8. During a telephone conversation with Mr. Larry Nixon on 02/05/97 a provisional election was made without traverse to prosecute the invention of groups I and III, claims 1-4, 9-10. Affirmation of this election must be made by applicant in responding to this Office action. Claims 5-8 withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

9. A telephone call was made to Mr. Larry Nixon on 02/11/97 to request an oral election to the above restriction requirement (as to groups I and III), however, but did not result in an election being made between groups I and III.

#### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick whose telephone number is (703)305-4089.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen R. MacDonald, can be reached at (703)305-9708. The facsimile phone number for this group is (703)308-5399.

Any inquiry of a general nature or relating to the status of this applications should be directed to the Group receptionist whose telephone number is (703)305-3900.



Michael N. Opsasnick

March 25, 1997

ALLEN R. MACDONALD  
SUPERVISORY PATENT EXAMINER  
ART UNIT 2308

## Interview Summary

Application No.

08/537,803

Applicant(s)

Breen

Examiner

Mike Opsasnick

Group Art Unit

2308



All participants (applicant, applicant's representative, PTO personnel):

(1) Mike Opsasnick

(3) \_\_\_\_\_

(2) Mr. Larry Nixon

(4) \_\_\_\_\_

Date of Interview Feb 5, 1997Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description:Agreement ☐ was reached. ☒ was not reached.Claim(s) discussed: 1-10

Identification of prior art discussed:

None

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Examiner Opsasnick informed Mr. Larry Nixon that claims 1-9 covered three separate classes and that a restriction was in order. Mr. Nixon replied that claims 5-8 would be withdrawn, however, requested that claims 1-4, and 9-10 would be considered for examination. Examiner Opsasnick replied that the request would be reconsidered.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign and stamp this form unless it is an attachment to a signed Office action.